**IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH**

S.B. CIVIL WRIT PETITION NO.836/01

Kalu Ram **Versus** RIICO

DATE OF ORDER :: 15/05/2007

HON'BLE MR. JUSTICE AJAY RASTOGI

Mr. S.B. Mathur, for petitioner
Mr. A.K. Sharma, for respondents

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Petitioner, who is member of ST category and from economically weaker section, participated in NIT issued by respondents vide Ann.R/1 dated 9th April, 1996 of a kiosk [shop]/tea stall to be held on 17/04/1996.

Petitioner was one of the bidders and his bid for a sum of Rs.1,00,000/- was finally accepted and as per condition of tender document, 25% of the bid amount was to be deposited at the time of acceptance of bid and 75% by cash/Bank draft within one month from finalization of bid by the competent authority. It was specifically mentioned that cheque will not be acceptable and if bidder has failed to deposit 75% amount within the prescribed period, which he has deposited at the initial stage of bid would be forfeited.

As per case set up by petitioner, he deposited 25% of bid amount on 17th April, 1996 [Ann.1], but so far as 75% of bid amount is concerned, he has sent through cheque that too somewhere on 21st June, 2000 which is evident from

Para 14 of reply. Petitioner made number of representations for allotment or for refund of amount which he had deposited, but the same could not have been decided/considered because of terms and conditions of tender document and finally 25% amount which he had deposited was forfeited.

Counsel for petitioner submits that he was under bona fide impression at the time when he participated as one of the bidders for tea stall, the constructed portion of shop [kiosk] is also part of tea stall which has been put to auction and under this bona fide impression, he had proceeded to come out with the bid of Rs.1,00,000/- which was accepted by respondents. From perusal of auction notice Ann.R/1 dated 9th April, 1996, it is very clear that three kiosk/shops and tea stall were separately notified and put to auction and are not part of each other. Anyhow, petitioner being a poor & illiterate person, under bona fide belief proceeded to participate as one of the bidders, but anyhow could not find out the way by which his bid can be finalized.

Counsel for respondents submits that action of respondents is in consonance with terms of tender document and petitioner is not entitled for refund in terms of condition No.3 of document Ann.R/1 which has been placed on record.

It appears that petitioner had certainly violated the terms of tender document and

respondents at that stage were justified in forfeiting the amount of 25% which he had deposited. But, this court feels that petitioner who is illiterate and from economically weaker section downtrodden person and from his limited resources collected 25% which he had deposited initially, certainly has put him in financial crisis.

Without going into merits at this stage, but looking to the peculiar facts brought on record in the instant petition, it appears that under bona fide belief, petitioner had participated as bidder certainly make out a case that some wrong impression was drawn by him and that has put him in financial loss. This court is of the opinion that atleast the amount which he had deposited initially at the time of acceptance of bid in reference to auction notice Ann.R/1 dated 9th April, 1996 be refunded to him within two months. It is made clear that since it has been ordered is peculiar facts may not be cited as a precedent.

With the above observations, the writ petition stands disposed of.

[AJAY RASTOGI],J.

FRBOHRA,JR.P.A.